

**STATE OF ILLINOIS**

**BEFORE THE ILLINOIS COMMERCE COMMISSION**

**AccuTel of Texas, Inc. dba**  
**1-800-4-A-PHONE**

**vs.**

**Illinois Bell Telephone Company**  
**d/b/a Ameritech Illinois**

**DOCKET NO.**

02-6540

**COMPLAINT OF ACCUTEL OF TEXAS, INC.,**  
**DBA 1-800-4-A-PHONE AND**  
**REQUEST FOR EXPEDITED AND EMERGENCY RELIEF**

AccuTel of Texas, Inc., dba 1-800-4-A-PHONE, ("AccuTel") complains of Illinois Bell Telephone Company, d/b/a Ameritech Illinois, (hereafter "Ameritech") pursuant to 220 ILCS 5/13-514 *et seq.* Because the violations complained of have a substantial adverse effect on the ability of AccuTel to provide service to customer, AccuTel respectfully requests an order for emergency relief pursuant to 220 ILCS 5/13-515(e), and shows as follows:

1. AccuTel is a Texas corporation, providing competitive local exchange service in several states. The Illinois Commerce Commission ("Commission") issued AccuTel a license to provide resold and facilities-based switched and dedicated local exchange telecommunications services throughout the State of Illinois on October 24, 2001.
2. Ameritech is an incumbent local exchange carrier in Illinois under the statute. Ameritech provides local exchange and exchange access service in Illinois and is subject to the regulatory authority of this Commission.
3. AccuTel and Ameritech entered into an interconnection agreement that was approved by the Commission on April 24, 2002. The interconnection agreement permits Ameritech to

charge AccuTel a deposit only if AccuTel has not established a minimum of 12 consecutive months good credit history with all SBC-owned ILECs where CLEC is doing or has done business as a local service provider.<sup>1</sup> A copy of the interconnection agreement's deposit provisions are attached at Exhibit A. Because of the voluminousness of the agreement, the entire agreement is not attached but is available upon request.

4. On or about July 23, 2002, after signing the interconnection agreement, AccuTel was notified in writing that Ameritech was requiring a deposit of \$2 million from AccuTel before Ameritech would process any orders for services from AccuTel. A copy of the notice is attached as Exhibit B.
5. Ameritech is not entitled to charge AccuTel a deposit because AccuTel meets the requirements in the agreement for a good credit history with all SBC ILECs with which AccuTel is doing business. AccuTel does business and has interconnection agreements with SBC in Texas, Missouri, Oklahoma, Kansas, and Arkansas, and has never paid a bill late, although there may have been occasion when SWBT has not processed AccuTel payments on the day SWBT recieved those payments. And, while AccuTel has had

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<sup>1</sup> The interconnection agreement reads as follows:

- 7.2 If CLEC has not established a minimum of twelve (12) consecutive months good Credit history with all **SBC-owned ILECs** (that is, **AMERITECH**, **NEVADA**, **PACIFIC**, **SNET**, and **SWBT**) where CLEC is doing or has done business as a local service provider, CLEC shall remit an initial cash deposit to **SBC-12STATE** prior to the furnishing of Resale Services or Network Elements in each state covered by this Agreement. The deposit required by the previous sentence shall be determined as follows: ...

*See also 7.2.4:* If CLEC has established a minimum of twelve (12) consecutive months good credit history with all **SBC-owned ILEC(s)** (that is, **AMERITECH**, **NEVADA**, **PACIFIC**, **SNET** and **SWBT**) with which CLEC is doing or has done business as a Local Service Provider, **SBC-12STATE** shall waive the initial deposit requirement....

demand letters from SWBT and AIT, these have been in relation to amounts disputed and placed in escrow, and late charges connected to the disputed charges. Excluding these disputed issues, AccuTel's payment history should be rated satisfactory for the 12 months. This is borne out by the fact that AccuTel has never had to pay any deposit to any SBC ILEC to date.

6. Even if Ameritech is entitled under the interconnection agreement to a deposit before processing AccuTel's orders in Illinois, the deposit requested is not only patently unreasonable but also contrary to the interconnection agreement itself. Section 7.2.3 permits SBC-AMERITECH to require two to four months of projected initial average monthly billings as a deposit.<sup>2</sup> However, Ameritech has required a **\$2 million** deposit before connecting AccuTel even though AccuTel has **no** customers as yet in Illinois and AccuTel cannot acquire any customers until Ameritech allows the interconnections to take place. Ameritech initially informed AccuTel representatives that this \$2 million figure was derived from AccuTel's billings *system-wide* for a two month period, but later amended its position to indicate that the deposit reflected two months of AccuTel's billings in Texas – where AccuTel has been in business since 1998. Ameritech insists this amount is necessary to protect Ameritech's interests in the case of default after AccuTel has become established, months or years in the future.

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<sup>2</sup>

7.2.3 for SBC-AMERITECH, subject to external credit check verification and/or financial statement review, SBC-AMERITECH may require two (2) to four (4) Months of projected average monthly billings as a deposit....

*See also and compare § 7.2.1 (establishing initial deposit for other ILECs at \$17,000) and § 7.7(looking to most recent three months of billing when recalculating the deposit for that state).*

7. Ameritech's approach to calculating the deposit is improper and unreasonable and contrary to the interconnection agreement. Were a deposit proper, it should be based on AccuTel's projected *initial* billings only for Illinois, and were AccuTel ever to fail to timely meet its obligations to Ameritech in the future, Ameritech is allowed to protect itself by raising or requiring additional deposit at that time under Sections 7.4 to 7.8 of the interconnection agreement.
8. AccuTel expects that its initial average two and four months' total billings to be between \$13,299.42 to \$52,373.51. This is based upon the initial two to four months billings average for the last three states that AccuTel has entered:

	Oklahoma	Kansas	Arkansas
Month 1	57.42	5,439.61	2,729.11
Month 2	456.73	13,288.73	18,376.66
Month 3	12,347.83	17,913.76	16,878.61
Month 4	29,245	20,458.88	20,378.10

In Texas, which Ameritech would use as its comparison state, AccuTel was billed \$4,621.39, \$5,695.59, \$3,437.11, and \$15,922.71 in its first four months of operation, for a total of \$29,676.80. Looking at these figures for Texas, Oklahoma, Kansas, and Arkansas, a reasonable deposit based on the projected first two months of billings would be \$15,000.

9. A deposit of \$2 million for AccuTel's Illinois operations under these circumstances is patently unreasonable. Its imposition is an unabashed attempt to bar AccuTel's entry to the marketplace and a violation of 22 ILCS 5/13-514(1), (6) and (8).
10. During the week of July 29, 2002, AccuTel representatives expressed the concerns outlined above to Ameritech's employees, to no avail.
11. The requirements of 220 ILCS 5/13-515(c) have been fulfilled and the respondent did not correct the situation as requested. On or about August 8, 2002, counsel for AccuTel wrote to Ameritech to reiterate AccuTel's position and to provide Ameritech with notice of this dispute as required by 220 ILCS 5/13-515(c) and an opportunity to correct the problem, and notice that if a resolution had not been reached within 48 hours, AccuTel would file a complaint with the Commission pursuant to 220 ILCS 5/13-515(e) seeking emergency relief, and damages, attorney's fees, and costs as permitted by 220 ILCS 5/13-516(a)(3). A copy of this letter is attached as Exhibit C. Ameritech responded on August 12, 2002, the long and short of which was that it would not reduce the amount of the deposit required. A copy of the response is attached as Exhibit D.
12. Until Ameritech allows AccuTel to interconnect, AccuTel cannot provide service to customers in Illinois. AccuTel is suffering irreparable injury as a result of Ameritech's action.
13. The imposition of a \$2 million deposit under these circumstances is an unabashed attempt to bar AccuTel's entry to the marketplace and a willful impediment of the development of competition in violation of:

- 220 ILCS 5/13-514(1): “unreasonably refusing or delaying interconnections...to another telecommunications carrier”;
- 220 ILCS 5/13-514 (6): “unreasonably acting or failing to act in a manner that has a substantial adverse effect on the ability of another telecommunications carrier to provide service to its customers;” and
- 220 ILCS 5/13-514(8): “violating the terms or unreasonably delaying implementation of an interconnection agreement... in a manner that unreasonably delays, increases the cost, or impedes the availability of telecommunications services to consumers.”

14. The violations complained of have a substantial adverse effect on the ability of AccuTel to provide service to customers, since AccuTel cannot service customers at all until Ameritech agrees to provision AccuTel’s orders.

15. AccuTel does not waive the emergency time limits under 220 ILCS 5/13-515(e).

WHEREFORE, AccuTel respectfully requests an order for emergency relief pursuant to 220 ILCS 5/13-515(e), in particular an order requiring Ameritech to immediately process AccuTel’s service orders without a deposit until a determination can be made as to what deposit, if any, is appropriate, which determination can be made at a subsequent point in these proceedings. AccuTel also requests an award of damages, attorney’s fees, and costs as permitted by 220 ILCS 5/13-516(a)(3). As required by the Commission’s Rules Sec. 766.110(a), a draft order is attached to this complaint as Exhibit E.

Respectfully submitted,

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By: 

**VERIFICATION**

THE STATE OF TEXAS   §  
                                  §  
COUNTY OF Dallas   §

BEFORE ME, the undersigned authority, on this day appeared in person the undersigned affiant, who, being by me duly sworn, on oath swears that he/she said he/she read the foregoing pleading, that the facts in it are within his/her personal knowledge, and are true and correct.

*Kit Morris*  
Signature

Kit Morris  
Print name

Director New Business Development  
Print title

SIGNED AND SWORN TO before me on this 15<sup>th</sup> day of August, 2002

(SEAL) *Ann Burgiel* Notary Public - State of Texas



My Commission Expires 2-22-06



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BEFORE THE ILLINOIS COMMERCE COMMISSION**

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1-800-4-A-PHONE**

**vs.**

**Illinois Bell Telephone Company  
d/b/a Ameritech Illinois**

**DOCKET NO. \_\_\_\_\_**

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of AccuTel of Texas, Inc.'s Complaint has been sent to the following persons via Federal Express on this 16<sup>th</sup> day of August 2002:

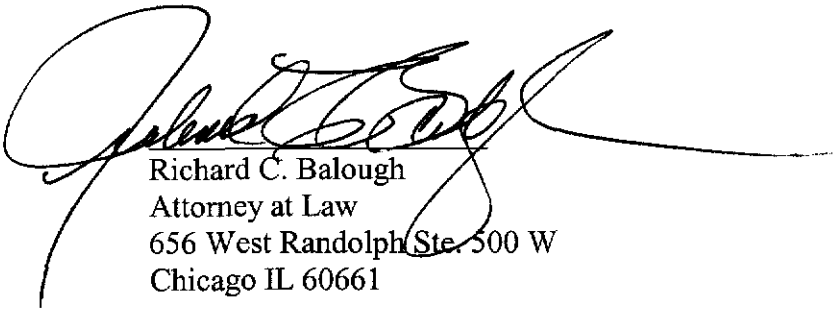
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